

**RIO DELL CITY COUNCIL
CLOSED SESSION
REGULAR MEETING
OCTOBER 20, 2009
MINUTES**

The Regular Meeting of the Rio Dell City Council was called to order at 5:30 P.M. by Mayor Woodall.

ROLL CALL: Present: Mayor Woodall, Councilmembers Dunker, Marks, and Thompson

Absent: Councilmember Barsanti

Others Present: Interim City Manager Hill, Acting Director of Public Works Jensen, Finance Director Beauchaine and City Clerk Dunham

ANNOUNCEMENT IN OPEN SESSION OF ITEMS TO BE DISCUSSED IN CLOSED SESSION

Mayor Pro Tem announced the City Council would be adjourning to closed session for: *Anticipated Litigation – Significant exposure to litigation pursuant to Government Code Section 54956.9(b): 1 potential case; Conference with Labor Negotiator Interim City Manager Graham Hill – Rio Dell Employees Association (RDEA) pursuant to Government Code Section 54957.6; Conference with Real Property Negotiator Interim City Manager Graham Hill Property: Former Eel River Sawmill Site Northwestern Ave. pursuant to Government Section 54956.8; Conference with Labor Negotiator Interim City Manager Graham Hill – Contract Negotiations – Chief of Police pursuant to Government Code Section 54957.6; Conference with Labor Negotiator Interim City Manager Graham Hill – Contract Negotiations – Acting Public Works Director pursuant to Government Code Section 54957.6; and Public Employment – City Manager Recruitment Pursuant to Government Code Section 54957 and asked for public comment. There being no public comment, the Council adjourned to closed session at 5:30 P.M.*

At the conclusion of the closed session, Mayor Woodall excused herself from attending the remainder of the meeting stating that she was not feeling well.

The regular meeting reconvened at 6:37 P.M. Mayor Pro Tem Marks announced there was no reportable action taken in closed session and that the Council would be reconvening back into closed session at the conclusion of the meeting.

CONSENT CALENDAR

Motion was made by Thompson/Dunker to approve the consent calendar including the minutes of the May 5, 2009 Regular Meeting; the minutes of the May 19, 2009 Regular Meeting; minutes of the August 4, 2009 Regular Meeting; Minutes of the August 11, 2009 Joint Study Session; minutes of the September 1, 2009 Regular Meeting; and the check register including the General Check Register for check numbers 27632-27767 totaling \$576,035.82 and the Payroll Check Register for check numbers 1487128-14939 totaling \$73,743.13. Motion carried 3-0.

ORDINANCES/SPECIAL RESOLUTIONS

Approve Resolution No. 1060-2009 Approving Contract Agreement with Adult Day Health Services of Fortuna for Transportation Services and Authorizing the City Manager to Execute the Agreement

Finance Director Beauchaine explained that the City has contracted with Adult Day Health Services of Fortuna for many years to provide transportation services for residents of Rio Dell who are disabled and/or 55 years of age or older. The City receives Transportation Development Act (TDA) funding through the Humboldt County Association of Governments (HCAOG) for this purpose and stated this year's cost for services will be \$6,250.

Councilmember Thompson asked if this amount was the same as the previous year; Beauchaine stated that this actually represented an increase from last year but that this is the amount the City requested and the amount that was received.

Motion was made by Dunker/Thompson to approve Resolution No. 1060-2009 *Approving the Contract Agreement with Adult Day Health Services of Fortuna for Transportation Services* and authorizing the City Manager to execute the contract agreement. Motion carried 3-0.

Approve Resolution No. 1061-2009 Approving the Form of and Authorizing the Execution and Delivery of a Purchase and Sale Agreement and Related Documents with Respect to the Sale of the Seller's Proposition 1A Receivable from the State; and directing and Authorizing Certain other Action in Connection therewith

Finance Director Beauchaine explained that Proposition 1A was passed by California voters in 2004 to ensure local property tax and sales tax revenues remain with local government thereby safeguarding funding for public safety, health, libraries, parks, and other local services. Provisions could only be suspended if the Governor declared a fiscal necessity with two-thirds concurrence of the legislature. She said as part of the 2009-2010 budget package was the emergency suspension of Proposition 1A whereby the State would borrow 8% of the amount of property tax revenue apportioned to cities, counties and special districts with the requirement that these obligations be repaid with interest by June 30, 2013.

She stated the Proposition 1A Securitization Program was instituted to enable local agencies to sell their respective Proposition 1A Receivables to California Communities and under this

program the California Communities would simultaneously purchase the proposition 1A Receivables, issue bonds and provide each local agency with the cash proceeds in two equal installments. The purchase price paid to the local agencies would equal 100% of the amount of the property tax reduction and the interest would be paid by the State.

Beauchaine then explained the benefits of participation in the Securitization Program stating that if the Council wished to forego the interest, she would recommend approval of the resolution authorizing the execution and delivery of a Purchase and Sale Agreement of the City's Proposition 1A Receivable from the State.

Councilmember Marks asked how much interest would be lost; Beauchaine noted between 1% and 3% which would amount to under \$1,000.

Motion was made by Thompson/Dunker to approve Resolution No. 1061-2009 *Approving the form of and authorizing the execution and delivery of a Purchase and Sale Agreement and related documents with respect to the sale of the seller's Proposition 1A Receivable from the State; and directing and authorizing certain other actions in connection therewith.* Motion carried 3-0.

Approve Resolution No. 1062-2009 Adopting the Gann Appropriations Limit for the Years Ending 1996-2010

Finance Director Beauchaine explained the Gann Initiative or Gann Appropriations Limit places limits on the amount of proceeds of taxes that state and local government agencies can appropriate and spend each year. She said the limit changes each year and is based on the amount of tax proceeds that were authorized to be spent in FY 1978-1979 in each agency and is modified for changes in inflation and population in each subsequent year. Although the City has not adopted the Gann Appropriations Limit since 1995, the estimated tax proceeds to be received, as well as tax proceeds appropriated by the City Council will, as in prior years, continue to be under the legal limit.

Motion was made Dunker/Thompson to adopt Resolution No. 1062-2009 *Adopting Gann Appropriations Limits* for the years ending 1996-2010. Motion carried 3-0.

Introduce and Conduct First Reading of Ordinance No. 263-2009 Amending Business License Ordinance No. 259-2008

Mayor Pro Tem Marks opened the public hearing at 6:55 P.M. to receive public comment on the proposed ordinance amendment.

Finance Director Beauchaine proceeded with presentation of a staff report and explained that under the State of California Health and Safety Code it is policy that each county and city permit and encourage the development of sufficient numbers of residential care facilities for the elderly as are commensurate with local need. She stated that since the City's current business license

ordinance does not include language exempting residential care facilities for the elderly, which serves six or fewer persons from local business taxes, an amendment to the business license ordinance is in order.

There being no public comment received, the public hearing closed at 6:57 P.M.

Motion was made Thompson/Dunker to introduce and conduct the first reading (by title only) of Ordinance No. 263-2009 (waiving further reading) *Amending Business License ordinance No. 259-2009 Exempting Certain Residential Care Facilities for the Elderly, from Business Taxes, Local Registration Fees, Use permits, or other fees to which other family dwellings of the same type in the same zone are not likewise subject.* Motion carried 3-0.

SPECIAL CALL ITEMS

Motion was made by Marks/Thompson to add an unlisted item to the agenda titled *Rio Dell Safe Routes to School Improvement Project Status Update and Progress Payment #3 for Wendt Construction* pursuant to Government Code Section 54954.2(b.2) because the need to take action arose subsequent to the agenda having been posted. Motion carried 3-0.

Safe Routes to School Improvement Project Status Update and Approval of Progress Pay Request #3 to Wendt Construction

Interim City Manager Hill explained the reason for the need to add the item to the agenda was to comply with the terms of the contract agreement because payment to the contractors is due within 30 days of the completed progress pay request and this progress pay request was submitted on October 14th.

Acting Director of Public Works Jensen recommended approval of the pay request stating that 95% of the construction was complete and the project was still within budget.

Motion was made by Dunker/Thompson to approve Progress Pay Request No. 3 to Wendt construction Co., Inc. in the amount of \$101,703.33 for work related to the Safe Routes to School Improvement Project. Motion carried 3-0.

Approve Award of Bid to K.G. Walters Construction Co. for Solids and Disinfection Management Project and Authorize the Interim City Manager to Execute the Contract

Interim City Manager Hill stated the project went out to bid and of the five bids received, K.G. Walters submitted the lowest bid.

Rebecca Crow, Project Manager from Winzler & Kelly reviewed her staff report as submitted and summarized the bid results stated that the Engineer's Estimate for the project was \$1.9 million which was well within the range of bids received. She noted there are some additional costs the City must pay related to the Solids and Disinfection Management project components

that are not transferable to the new wastewater site which were estimated at \$87,000. The construction bid included a separate bid item for the City paid components making the final bid amount from K.G. Walters for the City paid items at \$39,000. Grant funds contributed from the State Water Resources Control Board under ARRA funding totaled \$1,585,000. She noted one potential problem is that the State under this program does not provide for a contingency for construction in addition to the bid amount, stating she asked for an exception but they said they would not change the grant guidelines. She insured the Council they would do everything in their power to keep the project within budget but recommended the City set aside \$50,000 to cover any necessary change orders.

Councilmember Dunker stated he would like the City Council to have ample warning on any cost overruns, indicating in the past the Council wasn't informed until it was too late to do anything about it.

Motion was made by Dunker/Thompson to approve the Award of Bid to K.G. Walters Construction Co. for the Solids and Disinfection Management Project and authorize the Interim City Manager to execute the contract. Motion carried 3-0.

Approve Scope of Services between the City of Rio Dell and Winzler & Kelly for Construction Management Services for the Solids and Disinfection Management Project and Authorize the City Manager to Execute the Contract

Interim City Manager Hill provided a brief overview of the Scope of Services stating the Scope was reviewed and approved by the City Attorney and said the project is being funded by the State Water Resources Control Board Clean Water State Revolving Fund and that the tasks as described in the Scope of Services are eligible costs under the grant program.

Councilmember Marks asked if the City had adequate insurance coverage in the event of damages during construction; Interim City Manager Hill stated he would contact the City's Liability Insurance carrier to see if additional insurance is needed.

Motion was made by Thompson/Dunker to approve the Scope of Services between the City of Rio Dell and Winzler & Kelly for Construction Management Services for the Solids and Disinfection Management Project and Authorize the City Manager to Execute the Contract. Motion carried 3-0.

Review of City's Current Cell Phone Policy

Interim City Manager Hill stated in January, 2009 the City Council established a cell phone policy with adoption of Resolution No. 1030-2009. At that time the City Council requested the policy come back for further review in six months. He went on to explain the policy which identifies three levels of cell phone usage and provided a summary of current usage and costs within the various departments.

He noted there are currently 11 employees who are provided with a cell phone allowance with an annual cost to the City of \$1,900.00 for equipment allowance and \$660.00 for monthly calling plans. He said the cell phone allowances are taxed to be in compliance with Federal Tax laws and felt the current policy meets the needs of the City with a couple of minor exceptions stating that Plan B allows for a \$200.00 equipment allowance per year and recommended that the plan be modified to stipulate that only employees who have been authorized for the data plan receive an annual equipment allowance of \$200.00 and employees that do not use the data plan receive an allowance of \$100.00 annually.

Councilmember Marks asked if the allowance could be taken away by a department head; Finance Director Beauchaine noted that since the department head gives the allowance he/she can certainly take it away if warranted.

Councilmember Marks then asked if pagers were still used; both Chief of Police Hill and Acting Director of Public Works Jensen indicated that their respective departments also used pagers.

Councilmember Marks also questioned the use of data plans; Interim City Manager Hill stated the Finance Director, Water Superintendent and Wastewater Superintendent have data plans as approved by the City Manager.

Interim City Manager Hill recommended the policy be amended to reduce the equipment allowance to \$100.00 as noted previously and in addition modify the language to possibly reduce the equipment allowance under Plan C from \$100.00 annually to \$50.00. It was agreed that a revised resolution for the cell phone policy come back to the Council at a subsequent meeting.

Summary of City's ICMA Retirement Plan

Interim City Manager Hill reviewed the staff report which provided an overview of the City's current employee retirement plan with ICMA Retirement Corporation and stated under the City's current retirement plan there is no established period for employees to become vested in the plan. He said if the City chose to pursue a "vesting" period for deferred compensation, based on his research, the time period for an employee to become "fully vested" is established by the employer and only applies to the employer's contribution. Typically, a schedule is set up which establishes the percentage of return based on length of employment whereas for one year of employment an employee could be 20% vested, 40% after 2 years, 60% after 2 years, etc. In the event an employee leaves his/her employment with the city before becoming fully vested, the contributions could potentially come back to the City.

Councilmember Marks commented that maybe the City should support long term employees and look at possibly spreading those contributions among existing long term employees. Interim City Manager Hill agreed to explore the plan further and report back to the City Council on potential options.

Councilmember Dunker asked about the status of PERS Retirement; Interim City Manager Hill said he expected to hear back from PERS very soon.

PUBLIC PRESENTATIONS

None

REPORTS/STAFF COMMUNICATIONS

Interim City Manager Hill provided a brief update on code enforcement activities stating there were 7 weed abatement cases with volunteer compliance; 1 nuisance abatement with volunteer compliance; 1 on another property which was given an extension and that Notices of Order to Abate were issued on 3 properties. He noted there was extensive clean-up needed for a burned house on Rigby Ave. and was seeking assistance from the County. On the burned house on Riverside Dr. indicated clean-up would be commencing soon.

Acting Director of Public Works Jensen reported on recent activities in the public works department stating he was busy getting ready for the upcoming wastewater project; had a motor fail at the wastewater treatment plant; a problem with a secondary clarifier as well as with one of the RBC's. He also said he was trouble shooting some wiring problems and had been out in the field looking at the drainage system and was making sure the back-up generators were ready to go with the winter months approaching.

Finance Director Beauchaine reported on recent activities in the finance department stating she had a tremendously busy week working on the bridge financing for the wastewater project; had assisted with the grant award and bids; reported she expected to be receiving reimbursement from the State on the water infrastructure project very soon; RCAA was nearing completion of the CDBG loan portfolios; the auditors were working on their final adjustments for the audit which was scheduled to be completed by January; filled the vacant position in the finance department with Hilda from the police department through a State program where the City will get reimbursement for one half of her wages for 6 months; was preparing for a joint finance officers meeting at the River Lodge; and referred to the Combined Balance Sheet Summary as submitted noting that these reports were unaudited and unadjusted reports and therefore merely estimates at this time.

Councilmember Marks asked if the Park Bond Funds had been released; Finance Director Beauchaine said the funds had been received and she would be working with the Fire Department in regard to the \$110,000 that had been allocated to the Fire Department for their project to rebuild the restrooms at the Fireman's Park.

Councilmember Dunker stated he had put together a packet regarding a proposed project for use of the remaining Park Grant funds but was not sure where it had gone; Interim City Manager Hill suggested a study session be held to discuss the proposed projects.

COUNCIL REPORTS/COMMUNICATIONS

Councilmember Dunker said he would like to have on the next Council agenda discussion of the "In God We Trust" motto.

CLOSED SESSION (continued)

At 8:10 P.M. the Council reconvened into closed session to continue discussion of the closed session matters identified previously and asked for public comment.

There being no public comment, the Council recessed into closed session.

The meeting reconvened at 9:00 P.M.

Mayor Pro Tem Marks announced the Council took action in closed session to continue the item of Anticipated Litigation the next day; instructed the Interim City Manager to make contact with a land attorney in regard to the Former Eel river Sawmills Site; and instructed the Interim City Manager to develop a contract for the Acting Director of Public Works to include the same salary as the former Director of Public Works. No other reportable action was taken in closed session.

ADJOURNMENT

Being no further business to discuss, the meeting adjourned at 9:05 P.M. to the October 21, 2009 Closed Session.

Melissa Marks, Mayor Pro Tem

Attest:

Karen Dunham, City Clerk